

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

**CELLCO PARTNERSHIP, a Delaware
partnership, d/b/a VERIZON
WIRELESS,**

Petitioner

v.

**CITY OF ELKHART BOARD OF
ZONING APPEALS,**

Respondent.

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CASE NO. : 3:23-cv-00913-DRL-MGG

STIPULATION

The parties, Petitioner, Cellco Partnership, d/b/a Verizon Wireless, and Respondent, City of Elkhart Board of Zoning Appeals, stipulate as follows and request the Court to enter an order on this stipulation:

1. On September 6, 2024, the Court entered an Opinion and Order (Doc.41) and entered Judgment stating, in part, that the Court “REMANDS this case to the BZA to reconsider the variance petition and to issue a TCA-compliant decision on the variance petition by October 21, 2024.” Doc.42

2. Petitioner plans to file a motion pursuant to Fed. R. Civ. P. 59 seeking clarification and/or modification of the Judgment, to which Respondent anticipates filing a response. The parties agree that clarification is needed concerning the scope of the proceedings on remand.

3. The referenced motion will be filed on or before the deadline, October 4, 2024.

4. The parties request the Court to: (1) stay the Judgment unless and until the Rule 59 motion is decided by the Court; (2) stay further proceedings in the BZA; and (3) adjourn the deadline for the TCA-compliant decision on remand.

5. The parties agree that the proposed order can be entered without further proceedings. Given the time frame of the Judgment, the parties request the Court to enter the order promptly.

Dated this 1st day of October, 2024.

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